

REMARKS

Claims 1-72 are pending in the present application. Claims 1-72 are rejected under the judicially created doctrine of obviousness-type double patenting. Applicants respectfully request reconsideration of the application, withdrawal of all rejections, and allowance of the application in view of the amendments and remarks below.

The Invention

The present invention provides novel condensation drug aerosols and methods for producing such aerosols. These condensations aerosols have little or no pyrolysis degradation products. The unique method for generating or producing such aerosols employs rapid vaporization of the drug to minimize drug degradation during the process. These vaporized drugs are subsequently condensed to form particles of a desirable particle size for inhalation. These aerosols are especially useful in the treatment of acute or chronic conditions wherein rapid onset of treatment is desirable.

The Amendments to the Claims

Without prejudice to the Applicants' rights to present claims of equal scope in a timely filed continuing application, to expedite prosecution and issuance of the application, the Applicants have amended Claims 1-3 and 34-36 and cancelled Claims 4-33 and 37-72. The Applicants also have presented new Claims 73-132. The amended claims and the new claims are supported by the specification (see below for examples of such support).

| Claim | Examples of Support in the Specification |
|-----------------------|--|
| Claim 1 | Paragraphs 0015, 0017, 0022, 0024; Example 1 |
| Claim 2 | Paragraph 0047 |
| Claim 3 | Paragraph 0047 |
| Claim 34 | Paragraphs 0015, 0017, 0022, 0024; Example 1 |
| Claim 35 | Paragraph 0047 |
| Claim 36 | Paragraph 0047 |
| Claim 73 | Paragraphs 0001 [incorporates by reference U.S. provisional application Ser. No. 60/317,479 (see, e.g., page 30, lines 25-27)], 0022 |
| Claim 74 | Paragraph 0022 |
| Claim 75 | As recited above for Claim 73 |
| Claim 76 | Paragraph 0017 |
| Claim 77 | Paragraph 0017 |
| Claim 78 | Paragraph 0104 |
| Claim 79 | Paragraph 0015 |
| Claim 80- Claim 89 | Paragraph 0015 |
| Claim 90 | As recited above for Claim 73 |
| Claim 91 | Paragraph 0022 |
| Claim 92 | As recited above for Claim 73 |

| Claim | Examples of Support in the Specification |
|-------------------------|---|
| Claim 93 | Paragraph 0017 |
| Claim 94 | Paragraph 0017 |
| Claim 95 | Paragraph 0104 |
| Claim 96- Claim 106 | Paragraph 0015 |
| Claim 107- Claim 119 | Paragraphs 0001 [incorporates by reference U.S. provisional application Ser. No. 60/317,479 (see, e.g., page 30, lines 25-27)] 0015, 0017, 0022, 0024 |
| Claim 120- Claim 132 | Paragraphs 0001 [incorporates by reference U.S. provisional application Ser. No. 60/317,479 (see, e.g., page 30, lines 25-27)] 0015, 0017, 0022, 0024 |

The amendments to the claims do not introduce new matter. Applicants respectfully submit that the amendments to the claims put the case in condition for allowance. The Examiner is respectfully requested to enter the amendments to the claims and allow all amended claims.

Double Patenting

Claims 1-72 were rejected under the judicially created doctrine of obviousness-type double patent as being unpatentable over claims of U.S. Patent Nos. 6,716,417 B2 and 6,855,310 B2, as these claims are “either anticipated by, or would have been obvious over, the reference claims.” Office Action at 2-3.

Claims 1-33 were provisionally rejected under the doctrine of obviousness-type double patenting as being unpatentable over claims of copending Application Nos. 10/735,199, 10/735,497 and 10/718,982. *Id.* at 3-5.

Applicants have filed with this response Terminal Disclaimers with regard to U.S. Patent Nos. 6,716,417 B2 and 6,855,310 B2 and copending Application Nos. 10/735,199, 10/735,497 and 10/718,982. Applicants believe that this addresses the Examiner’s concerns and respectfully request reconsideration of the application, withdrawal of all rejections, and allowance of the application in view of these actions and remarks.

Conclusion

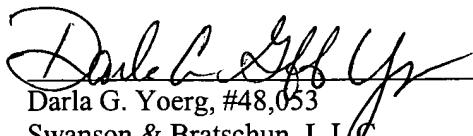
The Applicants appreciate the Examiner’s careful and thorough review of the application and submit that the Examiner’s concerns have been addressed by the amendments and remarks above. The Applicants accordingly request the Examiner to withdraw all rejections and allow the application. In the event the Examiner believes a telephonic discussion would expedite allowance or help to resolve outstanding issues, prosecution of the application, then the Examiner is invited to call the undersigned.

This constitutes a request for any needed extension of time and an authorization to charge all fees therefore to deposit account No. 19-5117, if not otherwise specifically requested. The undersigned

hereby authorizes the charge of any fees created by the filing of this document or any deficiency of fees submitted herewith to be charged to deposit account No. 19-5117.

Respectfully submitted,

Date: September 22, 2005



Darla G. Yoerg, #48,053
Swanson & Bratschun, L.L.C.
1745 Shea Center Drive, Suite 330
Highlands Ranch, Colorado 80129
Telephone: (303) 268-0066
Facsimile: (303) 268-0065

S:\CLIENTFOLDERS\ALEXZA\43.05CON\00043.05CON RESP OA.DOC